



MILPITAS CITY COUNCIL MEETING AGENDA

TUESDAY, NOVEMBER 1, 2016

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA
5:30 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL** by the Mayor (5:30 p.m.)
- II. ADJOURN TO CLOSED SESSION**
 - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**
Pursuant to California Government Code Section 54957.6
City Negotiators: Tom Williams, Tina Murphy
Employee Groups: (1) Milpitas Police Officers Association and (2) International Association of Fire Fighters. Under Negotiation: Wages, Hours, Benefits, and Working Conditions
 - (b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
Name of Case: American Arbitration Association Case No. 01-16-0000-4753
 - (c) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
City of Milpitas' appeal of City of San Jose Planning Director Decision, San Jose Planning Commission, file no. PD 14-014
 - (d) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**
Pursuant to California Government Code section 54956.9(d)(1)
Name of Case: US Sino Investment Co. v. City of Milpitas, et al. Superior Court Case No. MSC15-01700
 - (e) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**
Pursuant to California Government Code section 54956.9(d)(4) City as Plaintiff
 - (f) PUBLIC EMPLOYEE PERFORMANCE EVALUATION**
Pursuant to California Government Code Section 54957. Position: City Manager
 - (g) CONFERENCE WITH LABOR NEGOTIATOR**
Pursuant to California Government Code Section 54957.6
City Negotiator: Mayor Jose Esteves
Unrepresented Employee: Tom Williams
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE** (7:00 p.m.)

- V. INVOCATION** (Mayor Esteves)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** – October 17 and 18, 2016
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDAR** - November 2016
- VIII. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

- IX. ANNOUNCEMENTS**
- X. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**
- XI. APPROVAL OF AGENDA**
- XII. CONSENT CALENDAR (Items with asterisks*)**

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

XIII. PUBLIC HEARING

- 1. Conduct a Public Hearing and Adopt a Resolution Authorizing the Annexation of the Territory in the Future to Community Facilities District No. 2008-1 for Public Services (Staff Contact: Judy Chu, 408-586-3325)**

XIV. UNFINISHED BUSINESS

- * 2. Receive the Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**

XV. REPORTS OF COMMISSIONS

- 3. Receive Report and Approve Community Advisory Commission Work Plan (Staff Contact: Tim Wong, 408-586-3286)**
- 4. Receive Report and Approve Library Advisory Commission Work Plan (Staff Contact: Tim Wong, 408-586-3286)**

XVI. NEW BUSINESS

- * 5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**
- * 6. Approve City Council Meeting Schedule for 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**

XVII. ORDINANCES

- 7. Waive First Reading Beyond the Title and Introduce Ordinance No. 65.145 to Adopt by Reference with Certain Amendments to the 2016 Editions of the California Building Code,**

California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)

- 8. Waive First Reading Beyond the Title and Introduce Ordinance No. 113.24, to Adopt by Reference with Certain Local Amendments the 2016 Edition of the California Fire Code (Staff Contact: Albert Zamora, 408-586-3371)**

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 15, 2016**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review.

For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.ci.milpitas.ca.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on the City website. Phone 408-586-3040

All City Council agendas and related materials can be viewed online here:
www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Current Vacancies on

Economic Development Commission (hotel rep.)

Emergency Preparedness Commission

Sister Cities Commission

Commission application forms are available online at www.ci.milpitas.ca.gov or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to mlavelle@ci.milpitas.ca.gov prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.

AGENDA REPORTS

XIII. PUBLIC HEARING

1. Conduct a Public Hearing and Adopt a Resolution Authorizing the Annexation of the Territory in the Future to Community Facilities District No. 2008-1 for Public Services (Staff Contact: Judy Chu, 408-586-3325)

Background: On January 6, 2009, the City Council adopted Resolution No. 7815 enabling the establishment of City of Milpitas Community Facilities District (CFD) No. 2008-1 for public services. Pursuant to Government Code Section 53339.3 as an alternative proceeding, annexation to the existing CFD may be completed with annexation of the territory in the future to CFD No. 2008-1, with the condition that parcel(s) within the future territory be annexed only with the unanimous approval of the owner(s) of parcel(s) at the time that parcel(s) are annexed.

On September 20, 2016, the City Council adopted Resolution No. 8591 approving future annexation boundary area map and Resolution No. 8592 declaring intention to authorize the annexation of territory in the future to CFD No. 2008-1, and set the public hearing date for this meeting date November 1, 2016, directed the City Clerk to provide notice of public hearing in accordance with Government Code Sections 53339.4, 53322 and 53322.4.

On October 4, 2016, the future annexation boundary area map was recorded with the Santa Clara County Recorder's Office (Attachment 1). On October 25, 2016, a Notice of Public Hearing (Attachment 2) was published in the *Mercury News*, as evidenced by the affidavit of the publication on file with the City Clerk.

At the public hearing, after City Council receives all communications relating to the authorization to annex territory in the future and there is no majority protest against the authorization to annex territory in the future to the CFD No 2008-1 as defined by Government Code Section 53339.6, City Council may authorize the annexation of territory in the future to the CFD No. 2008-1 for public services, provided that future annexation proceedings may only be completed with the unanimous consent of the owner or owners of any parcel within the future annexation boundary area.

California Environmental Quality Act: Annexation of future territories to the existing CFD No. 2008-1 is not a project pursuant to the CEQA section 15378(b)(4), therefore, not subject to further environmental review.

Fiscal Impact: Annexation of future territories to CFD No. 2008-1 will enable the City to levy special tax for the real properties within the future territories to fund public services.

Recommendations:

1. Open the public hearing for comments on the proposed annexation of future territory into CFD No. 2008-1 and move to close it, following any testimony.
2. Adopt a resolution authorizing the annexation of the territory in the future into CFD No. 2008-1 for public services and direct City Clerk to record it with the County of Santa Clara Recorder.

XIV. UNFINISHED BUSINESS

*** 2. Receive the Update of the Odor Control Report (Staff Contact: Greg Chung, 408-586-3355)**

Background: From September 6 through October 4, 2016, the Bay Area Air Quality Management District (BAAQMD) forwarded 145 complaints originating in Milpitas. 76 complaints identified a garbage odor, 8 complaints identified a sewage odor, 59 complaints did

not identify an odor source, and two identified multiple odor sources. As of the last Council update, the City's odor reporting website has received 34 reported complaints.

Recommendation: Receive the monthly update of the Odor Control Report.

XV. REPORTS OF COMMISSIONS

3. Receive Report and Approve Community Advisory Commission Work Plan (Staff Contact: Tim Wong, 408-586-3286)

Background: The Community Advisory Commission (CAC) was founded on July 20, 1954. CAC serves as an advisory body to the City Council on matters affecting Milpitas residents, especially those relating to community improvement. The CAC makes a recommendation to the Council regarding Community Development Block Grant funding. The CAC's 2017 Work Plan identifies the Commission's goals, projects and ongoing tasks that Commissioners plan to accomplish for the upcoming year.

A copy of the proposed work plan for next year is included in the Council's agenda packet.

Recommendation: Approve the Community Advisory Commission 2017 Work Plan.

4. Receive Report and Approve Library Advisory Commission Work Plan (Staff Contact: Tim Wong, 408-586-3286)

Background: Founded on January 17, 1961, the Library Advisory Commission (LAC) makes recommendations to the City Council on matters pertaining to the operation of library services and facilities in Milpitas. The LAC's 2017 Work Plan identifies the Commission's goals, projects and ongoing tasks that Commissioners plan to accomplish for the upcoming year.

A copy of the proposed work plan for next year is included in the Council's agenda packet.

Recommendation: Approve the Library Advisory Commission 2017 Work Plan.

XVI. NEW BUSINESS

*** 5. Receive City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

Background: In compliance with the State of California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2016 is submitted for the Council's review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2016.

As of September 30, 2016, the principal cost and market value of the City's investment portfolio was \$187,302,499 and \$187,624,570 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2016 was 0.86%. The comparative benchmarks for the same period were 0.63% for LAIF (Local Agency Investment Fund) and 0.82% for the 12-month average yield of the 2-year Treasury Note. The weighted average maturity of the portfolio was 316 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

The market values of the securities were provided by BNY Mellon, the safekeeping bank of the City's securities. All the securities owned by the City are held in the trust department of BNY Mellon under the terms of a custody agreement.

Four charts are included with the agenda packet that show investment by maturity levels, comparison of the City's portfolio yields to other benchmark yields as well as a trend of the type of securities in the City's portfolio, weighted average maturity and average yield.

Fiscal Impact: None

Recommendation: Receive the investment report for the quarter ended September 30, 2016.

*** 6. Approve City Council Meeting Schedule for 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**

Background: The Milpitas Mayor and City Council are requested to consider and adopt their meeting schedule for 2017. Regarding the City Council's summer time meeting dates, it has been tradition to cancel both of the July regular Milpitas City Council meeting dates.

City staff has begun to prepare year-long calendars for next year and have inquired of the City Council as to what schedule will be followed in 2017. Staff requests that the Council act on an affirmative meeting schedule for 2017 for its regular business meetings. The proposed schedule is included in the agenda packet.

Recommendation: Move to approve the 2017 City Council meeting schedule.

XVII. ORDINANCES

7. Waive First Reading Beyond the Title and Introduce Ordinance No. 65.145 to Adopt by Reference with Certain Amendments to the 2016 Editions of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)

Background: Building Code Administration: Administration is an important part of the technical building codes and each code contains a separate administration section. Rather than adopting nine separate administration sections, the City of Milpitas consolidated the administrative provisions of all the codes into one document, modeled after the International Building Code as published by the International Code Council.

California Building, Residential, Mechanical, Electrical, Plumbing, Energy and Green Building Standards Code. State law requires each California City and County to adopt state model building codes and referenced standards as listed above. Local jurisdictions are permitted to make amendments to the model codes that are reasonably necessary due to local climatic,

geological, or topographical conditions. The Building and Safety Department has participated with most cities and counties in the East Bay, Peninsula and Monterey Chapters of the International Code Council (ICC), in the preparation of common code amendments. These proposed amendments are found in the Building Code, the Residential Code, the Plumbing Code, the Mechanical Code and the Electrical Code. The most significant amendments under proposal are found in Chapters 16, 18 and 23 of the California Building Code and are related to the design of buildings and structures to resist earthquake and wind forces. The State Building Codes, along with proposed local amendments, provide minimum standards for the design, construction material testing and installation of fire protection, exiting, structural, plumbing, mechanical and electrical systems for residential and non-residential buildings and related structures.

California Existing Building Code and International Existing Building Code. The California Existing Building Code, 2016 Edition and International Existing Building Code, 2015 Edition Appendix Chapters A2, A3, A4 and A5, are model building codes that provide the technical means to encourage the continued use or reuse of legally existing buildings and structures by establishing minimum standards for change of occupancy and alteration or repair of existing buildings and structures.

California Historical Building Code. The California Historical Building Code, 2016 Edition is a state model building code that provides regulations for preservation, restoration, rehabilitation or reconstruction of buildings or properties designated as qualified historical buildings or properties.

A draft copy of Ordinance No. 65.145 for first reading is included in the Council agenda packet.

Fiscal Impact: None.

Recommendations:

1. Following the City Attorney reading aloud the title, waive the first reading beyond the title of Ordinance No. 65.145.
 2. Move to introduce Ordinance No. 65.145 enacted as Chapter 1, Chapter 2, Chapter 3, Chapter 3.5, Chapter 5, Chapter 6, Chapter 7, Chapter 11, Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 19, Chapter 150 and Chapter 160 of Title II of the Milpitas Municipal Code revising provisions for Building Regulations.
 3. Set a public hearing for Tuesday, November 15, 2016 at 7:00 p.m. in the City Council Chambers to adopt Ordinance No. 65.145 by adopting by reference with certain amendments of the 2016 Editions of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5.
8. **Waive First Reading Beyond the Title and Introduce Ordinance No. 113.24, to Adopt by Reference with Certain Local Amendments the 2016 Edition of the California Fire Code (Staff Contact: Albert Zamora, 408-586-3371)**

Background: The California State Building Standards Commission adopted the 2015 International Fire Code with State Amendments, known as the 2016 Edition of the California Fire Code, which becomes effective by all local jurisdictions on January 1, 2017. In order for jurisdictions to maintain their current level of regulation without interruption, the code must be adopted with local amendments. As with past code adoptions, the Santa Clara County Fire Marshals Association collaborated to develop standardized amendments for use throughout the County that would maintain the existing level of regulation for the protection of public health and safety.

A Resolution for the City Council to adopt making certain findings necessary to locally amend portions of the California Fire Code will be submitted at the public hearing on November 15, 2016. Such findings shall be based on the following but not limited to Health and Safety Code Sections 17958.5 and 17958.7 relative to local climatic, geographical, or topographical conditions.

A draft copy of Ordinance No. 113.24 for first reading is included in the Council agenda packet.

Fiscal Impact: None.

Recommendations:

1. Following the City Attorney reading aloud the title, waive the first reading beyond the title of Ordinance No. 113.24.
2. Move to introduce Ordinance No. 113.24, to be enacted as Chapter 300, Title V of the Milpitas Municipal Code.
3. Set a public hearing for Tuesday, November 15, 2016 at 7:00 p.m. in the Milpitas City Council Chambers to consider adoption of Ordinance No. 113.24, adopting by reference with certain local amendments the 2016 Edition of the California Fire Code.

XVIII. ADJOURNMENT

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, NOVEMBER 15, 2016**